



March 25, 2003

ENGROSSED HOUSE BILL No. 1092

DIGEST OF HB 1092 (Updated March 20, 2003 1:05 PM - DI 102)

Citations Affected: IC 33-5; IC 33-13.

Synopsis: St. Joseph County superior court and pension for judge pro tempore. Removes the requirement that the superior court located in Mishawaka be full-time and exercise full superior court jurisdiction. Allows a judge to purchase service credit for service as a full-time judge pro tempore. (The introduced version of this bill was prepared by the pension management oversight commission.)

Effective: July 1, 2003.

Kersey, LaPlante

(SENATE SPONSORS — BRAY, SKINNER)

January 7, 2003, read first time and referred to Committee on Labor and Employment.
February 6, 2003, reported — Do Pass. Recommitted to Committee on Ways and Means.
February 27, 2003, amended, reported — Do Pass.
March 3, 2003, read second time, ordered engrossed. Engrossed.
March 4, 2003, read third time, passed. Yeas 93, nays 3.

SENATE ACTION

March 10, 2003, read first time and referred to Committee on Pensions and Labor.
March 24, 2003, amended, reported favorably — Do Pass.

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EH 1092—LS 6457/DI 102+



March 25, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1092

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-5-40-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The St. Joseph
3 superior court shall hold its sessions in the St. Joseph County
4 courthouse in the city of South Bend and in at least one appropriate
5 place in the city of Mishawaka. ~~The superior court in the city of~~
6 ~~Mishawaka shall be full time and shall exercise full superior court~~
7 ~~jurisdiction in that city.~~ The board of county commissioners of St.
8 Joseph County shall provide and maintain in the courthouse in South
9 Bend and in an appropriate place in Mishawaka court facilities, such
10 facilities to include suitable and convenient courtrooms, jury rooms and
11 offices for the judges, secretaries and official court reporters, and other
12 necessary facilities, including all the necessary furniture and equipment
13 for the rooms and offices of the court for the conduct of all criminal
14 and civil business, including the necessary facilities for jury trials.
15 (b) The judges of the court have all jurisdiction and authority
16 granted them by law irrespective of the city in which they are located.
17 SECTION 2. IC 33-13-8-27 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) As used in this section, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

- (1) is not covered by IC 33-13-9.1 or IC 33-13-10.1; but
- (2) is served by a person who has other service that is covered by IC 33-13-9.1 or IC 33-13-10.1.

(b) A participant may purchase judge pro tempore service credit if:

- (1) the participant has at least one (1) year of service in the fund;
- (2) before the participant retires, the participant makes contributions to the fund:

(A) that are equal to the product of the following:

- (i) the participant's salary at the time the participant actually makes a contribution for the service credit;
- (ii) a percentage rate, as determined by the actuary of the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and
- (iii) the number of years of judge pro tempore service the participant intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

- (3) the fund receives verification from the applicable court that the judge pro tempore service occurred.

(c) A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

(d) A participant who:

- (1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or
- (2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a

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properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1092, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1092, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-5-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** There is established a superior court in St. Joseph County, Indiana, which court shall consist of eight (8) judges.

(b) To be eligible to hold office as a judge of a St. Joseph superior court, a person must be:

- (1) a resident of St. Joseph County;**
- (2) less than seventy (70) years of age at the time of taking office; and**
- (3) admitted to the practice of law in Indiana.**

SECTION 2. IC 33-5-40-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The St. Joseph superior court shall hold its sessions in the St. Joseph County courthouse in the city of South Bend and in at least one appropriate place in the city of Mishawaka. ~~The superior court in the city of Mishawaka shall be full time and shall exercise full superior court jurisdiction in that city.~~ The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities, such facilities to include suitable and convenient courtrooms, jury rooms and offices for the judges, secretaries and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law irrespective of the city in which they are located.

SECTION 3. IC 33-5-40-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 41. (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be ~~domiciled in~~ **a resident of** the county of St. Joseph, a

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citizen of the United States, **less than seventy (70) years of age at the time of taking office**, and admitted to the practice of law in the courts of this state.

(b) In abiding by the mandate in subsection (a) of this section, the commission shall evaluate in writing each eligible individual on the following factors:

- (1) Law school record, including any academic honors and achievements;
- (2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs;
- (3) Activities in public service, including:
 - ~~(i)~~ (A) writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, testimony before public agencies;
 - ~~(ii)~~ (B) efforts and achievements in improving the administration of justice;
 - ~~(iii)~~ (C) other conduct relating to his profession.
- (4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge;
- (5) Probable Judicial temperament;
- (6) Physical condition, including age, stamina, and possible habitual intemperance;
- (7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness and dedication;
- (8) Membership on boards of directors, financial interest, and any other consideration which might create conflict of interest with a judicial office;
- (9) Any other pertinent information which the commission feels is important in selecting the best qualified individuals for judicial office.

(c) These written evaluations shall not be made on an individual until he states in writing that he desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate shall not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court."

Page 3, after line 21, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2003] **IC 33-5-40-1, as**

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amended by this act, does not apply to a judge who holds office on June 30, 2003, until the end of the judge's current term."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1092 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 26, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1092, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 10.

Page 2, delete lines 10 through 42.

Page 3, delete lines 1 through 13.

Page 5, delete lines 10 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1092 as printed February 28, 2003.)

HARRISON, Chairperson

Committee Vote: Yeas 6, Nays 0.

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